

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DESSERTS ON US, INC.,

Plaintiff,

v.

KAMFLEX CONVEYOR  
CORPORATION, et al.,

Defendants.

Case No. 19-cv-05944-VC

**ORDER DIRECTING PLAINTIFF TO  
SUPPORT REQUEST FOR DAMAGES**

Re: Dkt. No. 88


Desserts On Us is directed to submit, by February 9 at 5:00 pm, more reliable evidence in support of its damages request. The submission should address the following issues:

1. The totals provided for the equipment-related damages (the \$303,123.42 and \$762,579.67) do not match the sums of the prices listed in Exhibit A for the relevant items. Explain how Exhibit A should be used to get the company's damages totals, or supplement the record with the materials necessary for the Court to understand those totals.
2. The Court is skeptical that Desserts On Us has met its burden of proving that the \$762,579.67 figure discussed at the bottom of page 3 of the motion should be considered damages resulting from Kamflex's conduct. That number reflects the price of "equipment purchased in anticipation of obtaining a mechanized cooking packaging system from someone before entering the contract with KAMFLEX." Indeed, the record indicates that Desserts made those purchases in May 2017 but didn't contract with Kamflex until September 2017. Why wouldn't the damages resulting directly from the failed contract (the amount Desserts On Us paid Kamflex as well as the cost of equipment it bought specifically for Kamflex's system) put Desserts in the same position it was in before it contracted with Kamflex, a position that

includes \$762,579.67-worth of equipment purchased “in anticipation” of a cookie packaging machine?

**IT IS SO ORDERED.**

Dated: February 5, 2021



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VINCE CHHABRIA  
United States District Judge